

Litton
Corporate

January 3, 1992

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Law Department
1725 Jefferson Davis Highway
Suite 601, Crystal Square Two
Arlington, Virginia 22202-3585
Telephone: 703 892-3916
Telecopier: 703 892-3970

VIA FEDERAL EXPRESS

Theodore F. Craver
Staff Vice President
Director of Trade
Regulations and
Environmental Affairs

Mr. Edwin G. McKnight, Chief
Superfund Section
Department of Natural Resources
Division of Environmental Quality
P.O. Box 176
Jefferson City, MO 65102

Dear Mr. McKnight:

In response to your letter of December 11, 1991, I submit the following comments on the draft Consent Agreement which was included with your letter.

1. The proper party for Litton would be Litton Systems Inc., Advanced Circuitry Division, referred to in the Consent Agreement as "Responsible Party" or "RP."
2. The information called for in Paragraph I to be agreed upon between RP and MDNR.
3. Definition of site by legal description called for in II.
A. to be agreed upon between RP and MDNR.
4. The following language to be added to III.A.2: The parties agree that in deciding whether the Site has achieved a classification of Five (5), that guidance issued by the U.S. Environmental Protection Agency under its Superfund program shall be followed to determine whether risks presented by hazardous substances at the site to human health and the environment are acceptable. Current applicable guidance includes Risk Assessment Guidance for Superfund Volume I Human Health Evaluation Manual (EPA/549/1-89/002) and Risk Assessment Guidance for Superfund Volume II Environmental Evaluation Manual (EPA 540/1-89-001).
5. III.A.3 to be reworded as follows: If the MDNR determines that following remedial action, the Site presents an unreasonable risk to human health or the environment consistent with the standards specified in Paragraph III.A. 2, then MDNR may pursue listing of the Site on the Registry.
6. A new Paragraph III.B.3 is added as follows: RP may implement interim corrective measures at the site in a manner not inconsistent with long term remediation at the site.

7. Paragraph III.B.3 becomes III.B.4; paragraph III.B.4 becomes III.B.5; and paragraph III.B.5 becomes paragraph III.B.6.

8. Paragraph III.D.1 to be reworded as follows: A significant spread of contamination over additional portions of the site or off-site.

9. Paragraph III.D.2 to be reworded as follows: A significant increase in human exposure to the hazardous materials;

10. Paragraph III.D.3 to be reworded as follows: A significant increase in adverse environmental impacts;

11. Paragraph III.D.4 to be reworded as follows: A situation making potential remedial actions to correct problems at the site substantially more difficult to undertake or complete.

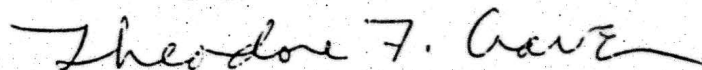
12. Paragraph V.: Add the word ", or action" between the words "report" and "required" in the fourth line.

13. To Paragraph VII, add the words ", subject to the provisions of Paragraph V" between the words "authority" and "to" in the third line.

14. We would like to see a typical cost reimbursement statement which would be submitted pursuant to Paragraph IX.A.

We look forward to negotiating the Consent Agreement with the Attorney General's office and your staff.

Very truly yours,



Theodore F. Craver
Staff Vice President
Director of Trade Regulations
and Environmental Affairs

CC: Ms. Shelly Woods
Attorney General's Office

CONSENT AGREEMENT

The parties hereto, Owner/Operator or Responsible Party (O/O or RP) and the Missouri Department of Natural Resources (MDNR), stipulate and agree as follows:

1. Dates, quantity, contaminants and location of disposal.
2. On March 1, 1985, the Hazardous Waste Management Commission (HWMC) adopted regulation 10 CSR 25-10.010, Abandoned or Uncontrolled Hazardous Waste Disposal Sites, allowing a responsible party to commit in writing to investigate the Site and implement an approved remedial action by signing a consent agreement with the MDNR.

The MDNR and (O/O or RP), by their representatives, have agreed to the making of this Agreement, and MDNR, and (O/O or RP) further stipulate and agree as follows:

I. PARTIES

This Agreement shall apply to and be binding upon the MDNR, and (O/O or RP) and upon their officers, directors, agents, employees, contractors, successors and assigns and upon all persons or firms acting under or for them.

II. DEFINITIONS

Certain terms used in this Agreement are defined as follows:

- A. The "Site" means...(define the site in terms of the legal description or particular buildings/structures).
- B. "MDNR" means the Missouri Department of Natural Resources.
- C. "Remedial Action Plan" means the MDNR-approved procedures to be followed in implementation of any remedial action at the Site and all necessary related procedures including, but not limited to, safety,

analysis, sampling, handling, packaging, storage, removal, transportation, labeling, registration, and Site security. Additional remedial actions may be necessary after completion of a remedial action dependent upon results of sample analysis or development of new information. Once approved, the remedial action plan shall be made a part of this agreement; subject to the same stipulations contained herein.

D. "Waste Materials" means any hazardous waste, as defined in 42 U.S.C. §6903(5) and §260.360(9), RSMo; or hazardous substance as defined in 42 U.S.C. §9601(14) and §260.500(5), RSMo; or pollutant or contaminant as those terms are defined in 42 U.S.C. 9601(33) and §260.440, RSMo.

E. "Registry" means the Missouri Registry of Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites, §260.440.1 RSMo.

F. The "Work" means the implementation of the Remedial Action Plan as approved by the MDNR in order to achieve a classification of Five (5) pursuant to 10 CSR 25-10.010, and as the same may be modified from time to time pursuant to the provisions of this Agreement.

G. The "director" means the director of the Missouri Department of Natural Resources.

III. GENERAL PROVISIONS

A. The Objectives of this Agreement

1. The objectives of the parties, through entry of this Agreement, are to protect the public health and the environment from releases or threatened releases of waste materials from the Site by investigation, development, design and implementation of remedial and monitoring programs by (O/O or RP).

2. Remedial actions undertaken at a Site according to the terms of this Agreement must include all necessary actions to achieve a classification of Five (5) pursuant to §260.445.3, RSMo, in order for the MDNR not to pursue listing of the Site on the Registry.

3. If the MDNR determines that the remedial action has not resulted in the Site being properly closed with no evidence of present or potential adverse impact with no further action required pursuant to §260.445.3, RSMo, the MDNR shall pursue listing of the Site on the Registry.

B. Commitment of the Parties

1. (O/O or RP) shall undertake and assure the implementation of the objectives of this Agreement.

2. (O/O or RP) shall submit a Remedial Action Plan to MDNR. The Remedial Action Plan will establish a schedule and specific responsibilities for completion of any site investigations and remedial action. The Remedial Action Plan shall specify the cleanup criteria for soil and groundwater, if applicable and for (list the site specific contaminants and their degradation products, if any).

3. (O/O or RP) shall obtain MDNR approval before implementation of any remedial action.

4. (O/O or RP) shall complete the remedial action in accordance with the standards, specifications, and schedule of completion set forth in the Remedial Action Plan.

5. Beginning on the date of the remedial action and continuing until the Work is completed, (O/O or RP) shall be responsible for any release or threat of release of hazardous substances from the Site resulting from its acts or omissions in the performance of the remedial action. (O/O or RP) shall assume any and all liability arising from or relating to its acts or omissions

in the performance or the implementation of the remedial action or its failure to perform fully or complete the responsibilities outlined in the Remedial Action Plan.

6. (O/O or RP) shall provide a copy of this Agreement to any contractor or subcontractor retained to perform Work contemplated by this Agreement and shall condition any contract for such Work on compliance with this Agreement.

7. (O/O or RP) shall not sell, convey or transfer title to the site except in accordance with the laws of the State of Missouri, §260.440 and §260.465, RSMo.

8. (O/O or RP) shall not substantially change the manner in which the site is used except in compliance with the laws of the State of Missouri, §260.440 and §260.465, RSMo.

A. Requests for approval for changes in use must be submitted in writing to the director at least sixty (60) days prior to any planned substantial change in use.

B. The request must include a detailed site description, a detailed description of the change in use planned and an analysis concerning whether the change in use might result in any of the criteria listed in 10 CSR 25-10.010(4)(A)4. Any plans, specifications or designs prepared for the change in use should be submitted to the director with the request.

C. The director will evaluate the request to determine whether the change in use is substantial. If the change in use is not substantial, the director will notify (O/O or RP) that departmental approval is not required.

D. If the director determines that the change in use is a substantial change, the request will be evaluated to determine whether the change in use may result in:

1. A spread of contamination over additional portions of the site or off-site;

2. An increase in human exposure to the hazardous materials;
3. An increase in adverse environmental impacts; or
4. A situation making potential remedial actions to correct problems at the site more difficult to undertake or complete.

C. Compliance with Applicable Laws and Regulations

1. The Work undertaken by (O/O or RP) pursuant to this Agreement shall be in compliance with all applicable federal, state, and local laws and regulations promulgated thereunder. (O/O or RP) shall obtain, or cause its contractors to obtain, all permits or approvals necessary under such laws. (O/O or RP) agrees to submit applications and requests in accordance with all statutory and regulatory requirements, and recognizes that approval or denial of such applications or requests shall be subject solely to permit application and appeals processes established by applicable laws and regulations.

IV. REPORTING AND RECORDKEEPING: RETENTION AND AVAILABILITY OF INFORMATION

A. (O/O or RP) shall provide written progress reports to the MDNR individual designated to receive such communications which describe the actions which have been taken during the previous month* toward achieving compliance with this Agreement. Reports shall be submitted within ten (10) days after the first day of each month, beginning in the first full month following the execution of this Agreement. The reports shall include:

1. The date any task was completed;
2. An identification of any event which may cause a delay in completing any future tasks, and a summary of efforts made, if any, to mitigate the delay;
3. The progress made toward completing the Remedial Action Plan and the specific responsibilities outlined in it;

*This can be made for quarterly reporting, if approved by the MDNR.

4. The activities scheduled for the next month; and
5. The submission of data resulting from the completion of any site investigation and remedial action or any data as requested by MDNR.

B. (O/O or RP) shall preserve for three years after completion of the Work all records, documents, and information relating to the performance of the Work at the Site and the removal of waste materials from the Site, including sampling, analysis, chain of custody records, manifests, contracts, trucking logs, bills of lading, receipts, records pertaining to traffic routing, destination of waste materials, and volume and chemical nature of such materials, correspondence and other documents produced during the Work. The period of record retention is extended automatically during the course of an unresolved enforcement action regarding the regulated activity or as requested by the MDNR. The MDNR shall have access to such records. (O/O or RP) further agrees to make available to MDNR any employees with knowledge of relevant facts concerning the performance of the Work for purposes of investigation, information gathering, or testimony related to the Work.

C. (O/O or RP) shall contact the MDNR 30 days in advance of the proposed disposition of any records from the file developed for this Work. No files or documents concerning this Site shall be disposed of without notifying the MDNR in advance. Upon notification, the MDNR may require that the documents be retained by (O/O or RP) for an additional specified period. Alternatively, MDNR may require that the documents be transferred to the MDNR for retention. MDNR may request reimbursement for the cost of retention for the additional period. Files may be retained in microform, if the documents are suitable for microform copying and if the microform may be reproduced as an accurate hard

copy version of the original. (O/O or RP) shall obtain MDNR approval of the process before copying or disposal of the original documents. Original documents shall be retained for those types of documents which are not capable of being completely and accurately microformed (such as large documents, photographs or blue prints.)

D. The MDNR may require split sampling, where appropriate, of any samples required in the Remedial Action Plan. (O/O or RP) agrees to cooperate with representatives of the MDNR and to permit such representatives to take samples, including split samples, at all locations at the Site. Upon request, copies of the results of any such samples shall be provided to (O/O or RP). All sampling and analysis shall be done pursuant to U.S. Environmental Protection Agency (U.S. EPA) or MDNR protocols and chain of custody procedures, as applicable. Before disposal of any sample by (O/O or RP), MDNR shall be given thirty (30) days notice and an opportunity to take possession of such samples.

E. Upon completion of the Work as provided in the Remedial Action Plan, (O/O or RP) shall submit a certification to MDNR which states that the Work has been completed in satisfaction of the requirements and objectives of this Agreement. MDNR shall review the Work and, within ninety (90) days of receipt of the certification, shall indicate to (O/O or RP) its agreement or disagreement with the certification. If MDNR believes that the Work has not been completed in accordance with the standards and specifications set out in the Remedial Action Plan, MDNR shall notify (O/O or RP) in writing as to what should be done to complete the Work, referencing the specific portion(s) of the Remedial Action Plan and proposing a schedule of completion.

F. If (O/O or RP) fails to comply in a timely manner with any performance date or other requirement of this Agreement and such delay is caused by persons or events beyond the control of (O/O or RP), such delay shall not be considered

a breach of this Agreement. When circumstances are occurring or have occurred which may delay the completion of any phase of Work, (O/O or RP) shall notify the MDNR in writing of the reason(s) for and duration of such delay and the measures taken and to be taken by (O/O or RP) to prevent or minimize the delay and the timetable by which those measures will be implemented. Such notice shall be sent no later than the date of the monthly progress report next following the claimed occurrence.

G. If (O/O or RP) and MDNR agree that a delay is or was beyond the control of (O/O or RP) and upon the continuance of such delay, the parties shall modify the Remedial Action Plan to the extent necessary to enlarge the schedule for completion of the specific phase affected by such delay and any succeeding phase.

V. DISPUTE RESOLUTION

Any dispute which arises with respect to the meaning, application, interpretation, amendment or modification of this Agreement and the MDNR-approved Remedial Action Plan and the approved Appendices thereto, their terms, any plan or report required hereunder, or with respect to any party's compliance herewith or any delay hereunder (including, but not limited to, disputes concerning the adequacy of reports or plans for implementing the Remedial Action Plan) shall in the first instance be the subject of informal negotiations. If MDNR and (O/O or RP) cannot resolve the dispute within thirty (30) days, either party may request the HWMC to set the matter for a hearing to be handled as an appeal pursuant to §260.460, RSMo. The period for negotiations may be extended by mutual agreement between (O/O or RP) and the MDNR. Alternatively, the dispute may be presented to the HWMC for appropriate resolution upon written notice by any party.

VI. SITE ACCESS

(O/O or RP) must secure from the owner or operator of the Site access to the Site at all times as provided by law for authorized employees and representatives of the MDNR. Notice will either be to (O/O or RP) or by presentation of appropriate credentials at the Site. Access to the Site will be for the purposes of overseeing the implementation of the Remedial Action Plan, including sampling at the Site, conducting investigations relating to soil and groundwater contamination at, beneath or near the Site, and observing and monitoring the progress of the Work. In conducting such activities, the MDNR shall avoid, to the extent possible, interference with performance of the Work by (O/O or RP) and shall, to the extent possible, comply with all requirements of the Safety Plan promulgated pursuant to the Remedial Action Plan.

VII. RESPONSIBILITIES AND AUTHORITY OF ON-SCENE COORDINATOR

MDNR shall designate authorized employees and representatives of the MDNR to act as an On-Scene Coordinator (OSC) to observe and monitor the progress of the Work. The OSC shall have the authority to order the suspension of the Work as is reasonably necessary to protect human health or the environment or to prevent a release or threatened release of waste materials at or from the Site. If the OSC requires suspension of the Work, the OSC then shall have the authority to require (O/O or RP) to perform the Work in a manner consistent with the MDNR-approved Remedial Action Plan, also in a manner to avoid or mitigate any threat which the OSC believes may occur. Whenever feasible, the OSC shall consult with (O/O or RP) before ordering such suspension of the Work. In the event that the OSC suspends the Work, the parties shall agree in writing to modifications of the Agreement to the extent necessary so as to enlarge the schedule for the suspended phase or any succeeding phase by a period of time not to exceed the actual length of the suspension.

(O/O or RP) shall notify the MDNR immediately upon the occurrence of any event, which, in (O/O or RP's) judgment, may threaten human health or the environment. The notice shall be followed by written modification from (O/O or RP) within ten (10) days which explains the event, any action taken to eliminate the threat and the precautions to avoid recurrence of a similar event.

VIII. REPORT AND PLAN REVIEW

All plans and reports submitted by (O/O or RP) pursuant to this Agreement shall be subject to the written approval of the MDNR which approval shall be conditioned upon the receipt of necessary federal and state permits before any action is authorized. The MDNR shall review the report or plan, and in a timely manner. If any plan or report is not approved, (O/O or RP) shall resubmit a modified report to MDNR within thirty (30) days unless the parties agree upon a shorter or longer period.

IX. REIMBURSEMENT OF RESPONSE AND OVERSIGHT COSTS

A. Following the execution of this Consent Agreement, MDNR shall submit to the (O/O or RP) on a periodic basis an accounting of all response costs, including oversight costs incurred by the state with respect to work performed under this Agreement. Response costs may include, but are not limited to, costs incurred by the state in overseeing Respondent's implementation of the requirements of this Agreement and activities performed by the state as part of the remedial action plan. Costs shall include all direct and indirect costs including, but not limited to, time and travel costs of MDNR personnel and associated indirect costs, contractor costs, compliance monitoring, including the collection and analysis of split samples, site visits, discussions regarding disputes that may arise as a result of this Agreement, review and approval or disapproval of reports, and costs of redoing any of Respondent's tasks. Any necessary summaries shall serve as basis for payment demands.

B. Respondent shall, within 30 days of receipt of each accounting, remit a certified or cashier's check for the amount of those costs. Interest shall accrue from the later of: the date payment of a specified amount is demanded in writing; or the date of the expenditure. The interest rate is the rate of interest on investments for the Hazardous Substances Superfund in Section 107(a) of CERCLA.

C. Checks should be made payable to the Hazardous Waste Remedial Fund and should include the name of the site and the title of this Order. Checks should be forwarded to:

Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

D. Copies of the transmittal letter and check should be sent simultaneously to the MDNR Project Manager.

E. Respondent agrees to limit any disputes concerning costs to accounting errors and the inclusion of costs outside the scope of the Agreement.

Respondent shall identify any contested costs and the basis of its objection. All undisputed costs shall be remitted by Respondent in accordance with the schedule set forth above. Disputed costs shall be paid by Respondent into an interest bearing escrow account while the dispute is pending. Respondent bears the burden of establishing a MDNR accounting error or the inclusion of costs outside the scope of this Consent Order.

X. NOTICES

Whenever, under the terms of this Agreement, notice is required to be given or a report or other document is required to be forwarded by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice in writing to the other parties or another individual designated to receive such

communications. Notice to the individuals listed below shall constitute complete satisfaction of any notice requirement of the Agreement with respect to MDNR, the OSC (on behalf of the MDNR), and (O/O or RP), respectively.

(O/O or RP):

Name
Title
Address
Phone Number

MDNR:

Edwin D. Knight, Chief
Superfund Section
Hazardous Waste Program
Missouri Department of Natural
Resources
P.O. Box 176
205 Jefferson Street, 13th Floor
Jefferson City, MO 65102
(314) 751-3176

OSC: Designated individual may vary.

XI. MODIFICATION

No modification shall be made in this Agreement, including but not limited to, variance in the performance of the Work from the requirements set forth in the Remedial Action Plan, without written notification to and written approval of the MDNR and (O/O or RP).

XII. SCHEDULE

(O/O or RP) agrees to submit the Remedial Action Plan to the MDNR for its review within thirty (30) days of execution of this Agreement. MDNR agrees to review and issue comments regarding the technical merit of the Remedial Action Plan in a timely manner. (O/O or RP) agrees to resolve all comments on the plan to the satisfaction of MDNR within thirty (30) days of receipt of comments.

XIII. WITHDRAWAL OF LISTING

Upon successful completion of the Work that shall include all necessary actions to receive a classification of Five (5) pursuant to §260.445.3 RSMo, MDNR shall withdraw its proposed listing of the Site on the Missouri.

Registry of Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites. At such time, this Agreement shall terminate and the provisions hereof shall have no further force or effect.

FOR (O/O or RP):

FOR THE MISSOURI DEPARTMENT OF
NATURAL RESOURCES:

Name
Title

G. Tracy Mehan, III
Director

Date

Date